

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	10/667,029	ALFERNESS ET AL.	
	Examiner	Art Unit	
	TANH Q. NGUYEN	2182	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 15 June 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPPE 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.

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Continuation of 10. Other (including any explanation in support of the above items):

The explanation of the subject matter defined in each of the independent claims is not concise.

Appellant cites operations 204 and 206 of FIG. 2 and pages 6-7, lines 1-27 of the specification to support the limitation "determining an amount of memory bandwidth of a network processor used by a plurality of data types to transmit data through a plurality of active ports". It is not clear which of operations 204 and 206, and which lines of pages 6-7, lines 1-27 of the specification support the limitation.

Appellant cites operations 204 and 206 of FIG. 2 and pages 6-7, lines 1-27 to support the limitation "determining an amount of memory bandwidth of the network processor used by each of the plurality of data types". The limitation appears to be supported by operation 204 of FIG. 2 and page 6, line 1-31. Operation 206 of FIG. 2 and page 7, lines 1-26 support determining whether additional memory bandwidth may be allocated to a Fast Ethernet data type or a Gigabit Ethernet data type (Note that the cited section does not disclose operation 206 of FIG. 2 being performed with ATM data type) - hence do not appear to support "determining an amount of memory bandwidth of a network processor used by a plurality of data types to transmit data through a plurality of active ports".

Appellant cites operation 210 of FIG. 2 and pages 7-8, lines 28-5 to support "dynamically adjusting an amount of memory bandwidth allocated to at least one of the plurality of data types based on the determinations". Operation 210 of FIG. 2 and pages 7-8, lines 28-5 appear to support dynamically adjusting an amount of memory bandwidth allocated to a Fast Ethernet data type (or a Gigabit Ethernet data type) based only on the determination in operation 206 of FIG. 2 - hence do not appear to support dynamically adjusting an amount of memory bandwidth allocated to at least one of the plurality of data types based on both "determining an amount of memory bandwidth of a network processor used by a plurality of data types to transmit data through a plurality of active ports" and "determining an amount of memory bandwidth of the network processor used by each of the plurality of data types". Note further that operation 210 is not performed for ATM data type (page 8, lines 7-9) - hence suggests the plurality of data types not including ATM data type.

TQN: September 1, 2009